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8 and Tony Alovera

MAR 07 2006

For The Northern Mariana Islands

By _____

(Deputy Clerk)

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE**
12 **DISTRICT OF THE NORTHERN MARIANA ISLANDS**

13 ANGELITO TRINIDAD, et al.,

CIVIL ACTION NO. 97-0073

14 Plaintiffs,

15 vs.

16 JOHN S. PANGELINAN, et al.,

**MOTION TO CORRECT
ORDER GRANTING
WRIT OF EXECUTION**

17 Defendants.

21
22 Plaintiffs hereby respectfully move this court for an order to correct its
23 January 27, 2006 Order Granting Writ of Execution. This motion is made
24 pursuant to Fed. R. Civ. P. 60(a) which permits the court to correct clerical
25 mistakes in its orders.

26
27 This court issued its January 27, 2006 Order Granting Writ of Execution to

1 satisfy the deficiency judgment, interest, and additional attorney's fees, costs and
2 expenses incurred by Plaintiffs. On page 3 of the January 27, 2006 Order, the
3 court made the following statements:

5 Currently, there is a deficiency of the merit judgment in
6 the amount of \$85,899.58, with interest at 6.197% accruing
7 from July 1, 2001 until paid in full. In addition Defendants
8 have failed to pay attorney's fees and costs that the court has
awarded Plaintiffs in the amount of \$80,372.89.

9
10 Order Granting Writ of Execution (January 27, 2006).

11 In reviewing Plaintiffs' Motion for Confirmation of Sale of Real Property
12 filed on July 10, 2001, and the court's subsequent Order Confirming Sale of Fee
13 Simple Determinable Estates in Four Parcels of Real Property entered on July 13,
14 2001, Plaintiffs discovered that the deficiency judgment of \$85,899.58 includes
15 the attorney's fees of \$70,200.00 and costs of \$3,375.00 awarded by the court in
16 its Judgment entered on March 20, 2000. (*See* Tenorio Decl.) Those same fees
17 and costs appear to have been included in the amount of \$80,372.89., which the
18 court in the January 27, 2006 Order states Defendant must pay in addition to the
19 deficiency judgment and interest.

20 As such, Plaintiffs respectfully requests the court to amend its January 27,
21 2006 Order Granting Writ of Execution by correcting the last sentence of the
22 paragraph on lines 14-16 of page 3 accordingly.
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1 Respectfully submitted this 7th day of March, 2006.

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LILLIAN ADA TENORIO, ESQ.
Attorney for plaintiffs Angelito
Trinidad, Esperanza David, Ronnie
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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE**
11 **DISTRICT OF THE NORTHERN MARIANA ISLANDS**

12

13 ANGELITO TRINIDAD, et al,

14 Plaintiffs,

15 vs.

16 JOHN S. PANGELINAN, et al.,

17 Defendants.

18 CIVIL ACTION NO. 97-003

19

20 **DECLARATION OF LILLIAN A.**
TENORIO IN SUPPORT OF
MOTION TO CORRECT ORDER
GRANTING WRIT OF
EXECUTION

21 Date:

22 Time:

23 Judge: David A. Wiseman

24 I, LILLIAN ADA TENORIO, do hereby declare the following:

- 25 1. I am a United States citizen, and am over the age of 18.
- 26 2. I am an attorney duly licensed to practice law in all courts of the
- 27
- 28 Commonwealth of the Northern Mariana Islands. I represent the plaintiffs in this

1 civil action. I make this Declaration from my personal knowledge, and if called to
2 testify, I could and would do so on the basis of the facts and circumstances set
3 forth herein.

10 4. Pursuant to this court's Order of April 18, 2001, Plaintiffs purchased
11 four parcels of land belonging to Defendants for \$210,000.00. After set-off,
12 judgment was partially fulfilled leaving an outstanding balance of \$85,899.58 as
13 of June 26, 2001. According to Plaintiffs' Motion for Confirmation of Sale of
14 Real Property filed on July 10, 2001, that sum includes attorney's fees of
15 \$70,200.00 and \$3,375.00, in addition to interest on the principal amount accrued
16 from March 20, 2000 to June 30, 2001. (*See* Motion for Confirmation of Sale of
17 Real Property attached as Ex. "A").
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21 I declare under penalty of perjury that the foregoing is true and correct to
22
23 the best of my knowledge.

24 Signed this day of March, 2006.


Lillian Ada Tenorio
Attorney for Plaintiffs

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For The Northern Mariana Islands
By 91 (Deputy Clerk)

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2 **Charles R. Rotbart, Esq.**
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4 Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

8 ANGELITO TRINIDAD, RONNIE PALERMO,) CIVIL ACTION NO. 97-0073
9 HERMAN TEJADA, ESPERANZA DAVID,)
and ANTONIO ALOVERA.)

Plaintiffs,) **MOTION FOR CONFIRMATION**
) **OF SALE OF REAL PROPERTY**

12 vs.

MOTION FOR CONFIRMATION

JOHN S. PANGELINAN, MERCED B.

Date: n/a

JOHN S. PANGELINAN, MERCEDE B.
PANGELINAN AND PAPAS LTD. INC

Time: n/a

Defendants

Judge: Hon. Alex R. Munson

PLAINTIFFS now move this Court to confirm the sale of real property sold at auction on June 26, 2001, and state as follows:

18 1. On March 20, 2000 Plaintiffs obtained a judgment in their favor in the
19 amount of \$205,787.34, plus attorneys fees of \$70,200.00 and costs of \$3,375.20, totaling
20 \$279,362.54.

EXHIBIT

"A"

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285 20

1 2. On June 5, 2000, this Court entered an Amended Judgment in favor of
2 Plaintiffs and against Defendants John S. Pangelinan, Merced B. Pangelinan, and Papas Ltd., Inc.,
3 jointly and severally, in the principal amount of \$205,787.34, plus \$70,200 in attorney's fees, and
4 costs of \$3,375.20, for a total of \$279,362.54. Interest to accrue from March 20, 2000 forward in
5 the amount of 6.197% until paid in full.

6 3. On June 5, 2000 this court also issued an order titled "Notice of Order After
7 Hearing, Granting Plaintiffs' Motion But Giving Defendants A Date Certain By Which To Post Real
8 Property Bond. "

9 4. The Pangelinans failed to provide a \$700,000 bond on or before July 3, 2000
10 as required by the June 5, 2000 ."Notice of Order After Hearing, Granting Plaintiffs' Motion But
11 Giving Defendants A Date Certain By Which To Post Real Property Bond."

12 5. On July 11, 2000, this Court issued an Order Of Writ Of Execution.

13 6. On April 18, 2001, this Court issued an Order authorizing John B. Joyner to
14 levy execution upon Defendants real property to satisfy the judgment entered against Defendants and
15 in favor of Plaintiffs.

16 7. Pursuant to the April 18, 2001 order of this court, John B. Joyner filed a
17 Third Amended Notice of Sale on June 14, 2001. See Affidavit of John B. Joyner.

18 8. Copies of the Third Amended Notice of Sale were posted at the clerk's
19 office for the United States District Court, Horiguchi Building, Second Floor, and at the CNMI
20 Superior Court, Guma Hustisia, Ground Floor. See Joyner Affid.
21

1 9. Defendants were served with copies of the Third Amended Notice of Sale by
2 U.S. Mail. See Joyner Affid.

3 10. The Third Amended Notice of Sale was published in the Marianas Variety
4 on June 18, 2001, and June 22, 2001. See Joyner Affid.

5 11. A copy of the Third Amended Notice of sale was posted in a conspicuous
6 location at the real property referred to in the Third Amended Notice of Sale as Parcel 1.
7 See Joyner Affid.

8 12. Pursuant to the Third Amended Notice of Sale, John B. Joynder appeared at
9 the Law Office of Charles R. Rotbart, San Jose, Saipan, at 10:00 a.m. on June 26, 2001, and did
10 offer to sell, at public auction, to the highest bidder all of the right, title, and interest of Defendants
11 John S. Pangelinan, Merced B. Pangelinan and Papa's Ltd., Inc., in and to the real property
12 designated therein. See Joyner Affid.

13 13. It fully appears from the Report on the Third Amended Notice of Sale filed
14 by John B. Joyner that the only bids made for the purchase of said property were made by Plaintiffs
15 in the form of set-off bids. See Report On Third Amended Notice of Sale.

16 14. The bid for Parcel 1 is \$80,000. The bid for Parcel 2 is \$50,000. The bid for
17 Parcel 3 is \$40,000. The bid for Parcel 4 is \$40,000. Id. All four bids total \$210,000.

18 15. Pursuant to this court's order dated June 5, 2000, the principal amount of
19 \$205,787.34 has been accruing interest at a rate of 6.197% per year beginning March 20, 2000, and
20 accruing annually. As a result, interest has accrued in the amount of \$ 16,537.24 as of June 30,
21 2001. The total of \$205,787.34 plus \$ 16,537.24 is \$222,324.58.

1 16. This court also awarded attorneys fees of \$70,200 and costs of \$3,375.00.
2 When added to the underlying award plus interest as of June 30, 3001, the total amount of the
3 judgment owed Plaintiffs is now \$295,899.58.

4 17. Accordingly, if the amount bid of \$210,000 is off-set against the amount of
5 \$295,899.58, Plaintiffs have a remaining deficiency judgment against Defendants in the amount of
6 \$85,899.58. (Not including additional fees, costs and expenses of Plaintiffs).

7 18. Costs incurred to date for the services of John B. Joyner total \$237.50. Id.

8 PLAINTIFFS ARE LIMITED TO A 55 YEAR INTEREST IN THE PROPERTY

9 It must be noted that none of the purchasers at auction are of Northern Mariana
10 Descent. Accordingly, pursuant to the CNMI Constitution, Article 12, §2, the maximum real
11 property interest they may purchase from Defendants is limited to no more than 55 years.
12 Accordingly, the interest to be conveyed is not fee simple absolute but rather "fee simple
13 determinable" in that it is a fee simple interest for a determined period of 55 years. At the
14 termination of the that 55 year period the properties will automatically divest back to John S.
15 Pangelinan and/or his heirs.

16 Accordingly, Plaintiffs pray that this court confirm and approve the sale made by John B.
17 Joyner as described herein, order John B. Joyner to execute the [proposed] Certificate of Sale,
18 (submitted herewith), and authorize and order John B. Joyner to execute the [proposed] Quitclaim
19 Deeds transferring a 55 year fee simple determinable interest to Plaintiffs in each of the properties,
20 (submitted herewith).

1 Plaintiffs respectfully submit the attached “[proposed] Order Confirming Sale Of Real
2 Property” for the court’s consideration.

3
4 Respectfully submitted this 10th of July, 2001.

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6 
7 CHARLES R. ROTBART, Esq.
8 Attorney for Plaintiffs

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